

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jonathan Phillips	Team: Team # 6	CCRB Case #: 201202132	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thu, 02/16/2012 2:15 PM	Location of Incident: Riverdale Avenue and Strauss Street	Precinct: 73	18 Mo. SOL 08/16/2013	EO SOL 8/16/2013	
Date/Time CV Reported Thu, 02/16/2012 3:31 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 02/16/2012 3:31 PM		

Complainant/Victim	Type	Home Address
1. [REDACTED]	Reporting Non-Witness	[REDACTED]
2. [REDACTED]	Victim	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
3. POM Mark Brinadze	26105	948309	PBBN

Officer(s)	Allegation	Investigator Recommendation
A . POM Mark Brinadze	Abuse of Authority: PO Mark Brinadze stopped [REDACTED]	A . Unsubstantiated
B . POM [REDACTED]	Abuse of Authority: PO [REDACTED] frisked [REDACTED]	B . Unsubstantiated
C . POM Mark Brinadze	Abuse of Authority: PO Mark Brinadze frisked [REDACTED]	C . Unsubstantiated
D . POM [REDACTED]	Abuse of Authority: PO [REDACTED] searched [REDACTED]	D . Unsubstantiated
E . POM Mark Brinadze	Abuse of Authority: PO Mark Brinadze searched [REDACTED]	E . Unsubstantiated
F . POM Mark Brinadze	Other: PO Mark Brinadze failed to prepare a memo book entry as required.	F . Other Misconduct
G . POM [REDACTED]	Other: PO [REDACTED] failed to prepare a memo book entry as required.	G . Other Misconduct
H . POF [REDACTED]	Other: PO [REDACTED] failed to prepare a memo book entry as required.	H . Other Misconduct

Case Summary

██████████ called the Civilian Complaint Review Board (CCRB) on February 16, 2012, and filed the following complaint on behalf of his ██████-year-old son, ████████████████████ (encl. 5). ████████████████████ was not a witness to the incident but reported the details based on information supplied to him by his son.

At approximately 2:15 p.m. on February 16, 2012, ████████████████████ was walking home when he was allegedly stopped at the intersection of Riverdale Avenue and Strauss Street in Brooklyn by PO ████████████████████ and PO Mark Brinadze of Patrol Borough Brooklyn North. ████████████████████ was neither arrested nor issued a summons. The following allegations resulted from this incident:

- **Allegation A: Abuse of Authority: PO Mark Brinadze stopped ████████████████████ Jr.**
- **Allegation B: Abuse of Authority: PO ████████████████████ frisked ████████████████████ Jr.**
- **Allegation C: Abuse of Authority: PO Mark Brinadze frisked ████████████████████ Jr.**
- **Allegation D: Abuse of Authority: PO ████████████████████ searched ████████████████████ Jr.**
- **Allegation E: Abuse of Authority: PO Mark Brinadze searched ████████████████████ Jr.**

Neither PO ████████████████████ nor PO Brinadze recalled this incident. Corroborative eyewitness testimony concerning the allegations mentioned above was not obtained. As a result, the CCRB could not determine the factual details of the encounter that took place between PO ████████████████████ PO Brinadze, and ████████████████████. It is therefore recommended that **Allegations A through E be unsubstantiated.**

- **Allegation F: Other: PO Mark Brinadze failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.**
- **Allegation G: Other: PO ████████████████████ failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.**
- **Allegation H: Other: PO ████████████████████ failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.**

Because neither PO Brinadze, PO ████████████████████ nor PO ████████████████████ prepared memo book entries related to this incident it is recommended as to **Allegations F through H** that each officer be cited for **Other Misconduct.**

██████████ Jr. was offered mediation at the conclusion of his CCRB interview held on February 27, 2012. He opted to have an investigation into this incident performed.

Results of Investigation

Civilian Statements

Victim: ████████████████████

- *At the time of the incident, ████████████████████ was a ██████-year-old ██████ male with ██████ hair and ██████ eyes who stood ██████ lbs.*

CCRB Testimony

██████████ was interviewed at the CCRB on February 27, 2012 (encl. 6). At approximately 2:15 p.m. on February 16, 2012, ████████████████████ exited a bodega located near

the intersection of Saratoga Avenue and Livonia Avenue in Brooklyn, and began walking down Saratoga Avenue towards his home located at 123 Riverdale Avenue. [REDACTED] walked alone and was wearing a black Polo coat, a gray Champion sweatshirt, and blue jeans. [REDACTED] carried his cell phone in his left hand and he carried a plastic bag containing a soda, sandwich, and a bag of chips in his right hand.

As [REDACTED] approached the corner of Saratoga Avenue and Riverdale Avenue he saw a marked NYPD van #5381 travelling westbound on Riverdale Avenue towards Legion Street. [REDACTED] made eye contact for about three seconds with PO [REDACTED] (identified by Mr. [REDACTED] by name and shield number [REDACTED]), who was positioned in the front passenger's seat of the marked van. [REDACTED] denied saying anything to PO [REDACTED] as the two men stared at each other and he denied making any movements with his mouth.

[REDACTED] continued walking and made a left-hand turn onto Riverdale Avenue so that he was walking east towards Strauss Street. The marked van made a U-turn and pulled up alongside the curb. PO Mark Brinadze (identified by the CCRB and described as a light-skinned male in uniform who stood 6' tall and who appeared to be balding and between the ages of 28 and 34) rolled down his window and, while seated in the driver's seat, asked [REDACTED] "What's your problem with the police?" [REDACTED] stated that he had no problem with the police and that he was minding his own business. PO Brinadze ordered [REDACTED] to "wait" and [REDACTED] said, "Wait? What did I do? Wait for what?" PO Brinadze told [REDACTED] that he was stopping him and [REDACTED] said, "Ok, no problem. I'll stop."

PO [REDACTED], PO Brinadze, and PO [REDACTED] (identified by the CCRB and described as a uniformed [REDACTED] who appeared to be between [REDACTED] of age and who stood [REDACTED]) exited the van and approached [REDACTED] on the sidewalk. PO [REDACTED] told Mr. [REDACTED] that he was going to search him because he did not like the way that [REDACTED] had looked at him.

While facing PO [REDACTED], [REDACTED] raised his hands towards his ear while holding his cell phone in his left hand. PO [REDACTED] frisked [REDACTED]'s arms and searched him by entering both of his front pants pockets, the exterior pockets of his coat, and an interior pocket located on the left side of [REDACTED]'s coat. [REDACTED] had coins stored inside his left front pants pocket, dollar bills stored inside his right front pants pockets, and his wallet stored inside his rear left pants pocket. He had no other objects on his person. PO [REDACTED] search lasted between 45 and 90 seconds and PO [REDACTED] never stated what he was looking for.

During the time that PO [REDACTED] searched [REDACTED], PO Brinadze stood behind [REDACTED] and frisked his legs, tugged on [REDACTED]'s [REDACTED] and placed three of his fingers into each of [REDACTED]'s sneakers. When PO [REDACTED] completed the search he requested [REDACTED] ID and [REDACTED] removed it himself from his wallet, which was stored in his rear left pants pocket. [REDACTED] handed PO [REDACTED] his ID card and PO [REDACTED] recorded information into his memo book and returned the ID card to [REDACTED]. [REDACTED] was not issued a summons and he did not receive a Stop, Question & Frisk Card. PO [REDACTED] stood to the side throughout the duration of the stop and she neither spoke to or touched [REDACTED].

NYPD Statements:

Subject Officer: PO [REDACTED]

- *At the time of the incident, PO [REDACTED]*
- *On February 16, 2012, PO [REDACTED] was assigned to impact auto with PO [REDACTED] and PO Mark Brinadze. PO [REDACTED] was dressed in uniform and worked from 1:00 p.m. until 9:35 p.m. PO [REDACTED] was assigned to RMP #5381, a marked van.*

Subject Officer: PO MARK BRINADZE

- *At the time of the incident PO Brinadze was a 28-year-old white male with brown hair and brown eyes who stood 5'9", 210 lbs.*
- *On February 16, 2012, PO Brinadze was assigned to impact auto with PO [REDACTED] and PO [REDACTED]. PO Brinadze was dressed in uniform and worked from 1:00 p.m. until 11:35 p.m. PO Brinadze was assigned to RMP #5381, a marked van.*

Subject Officer: PO [REDACTED]

- *At the time of the incident, PO [REDACTED]*
- *On February 16, 2012, PO [REDACTED] was assigned to impact auto with PO [REDACTED] and PO Brinadze. PO [REDACTED] was dressed in uniform and worked from 1:00 p.m. until 9:35 p.m. She was assigned to RMP #5381, a marked van.*

Memo Books

Neither PO [REDACTED], PO Brinadze, nor PO [REDACTED] recorded memo book entries regarding this incident. None of these officers recorded any memo book entries between 1:20 p.m. and 4:38 p.m. (encl. 7, 9, 11).

CCRB Statements

PO [REDACTED] was interviewed at the CCRB on May 21, 2012 (encl. 8). PO Brinadze was interviewed at the CCRB on July 27, 2012 (encl. 10). PO [REDACTED] was interviewed at the CCRB on July 26, 2012 (encl. 12).

None of the officers interviewed had any recollection of this incident. Each officer was provided with a brief synopsis about the incident when interviewed at the CCRB, but their memories were not restored. Each officer was presented with a photograph of [REDACTED] but PO Brinadze was the only officer who recognized him. PO Brinadze recognized [REDACTED] from a domestic disturbance at the home of [REDACTED] mother, which PO Brinadze responded to within the 12 months preceding the incident in question. PO Brinadze, PO [REDACTED] and PO [REDACTED] denied performing any street stops of any civilians at the time and place of occurrence. None of the officers interviewed recalled what they were doing around 2:15 p.m.

NYPD Documents

73rd Precinct Stop, Question & Frisk Log

A review of the log of all Stop, Question and Frisk reports completed on February 16, 2012, did not locate any reports completed by either PO [REDACTED] PO Brinadze, or PO [REDACTED] in the time period spanning 1:00 p.m. to 3:00 p.m. (*encl. 14*). No report was located for [REDACTED]

73rd Precinct Roll Call

The tour two roll call for the 73rd Precinct shows that PO [REDACTED] PO Brinadze, and PO [REDACTED] were assigned together in RMP #5381 with Sgt. Timothy Sheldon (*encl. 16*).

Sgt. Sheldon's Memo Book

A review of Sgt. Sheldon's memo book shows that he attended a lieutenant's meeting between 1:30 p.m. and 2:00 p.m. He did not begin patrol with PO [REDACTED] PO Brinadze, and PO [REDACTED] until 2:40 p.m. (*encl. 13*).

Officers Not Interviewed

Based on the information contained in Sgt. Sheldon's memo book it is clear that he was not present at the time the incident in question took place. This is supported by [REDACTED] own testimony which states that there were only three officers inside van #5381 at the time he was stopped. For this reason, the CCRB did not interview Sgt. Sheldon in connection with this incident.

Status of Civil Proceedings

- [REDACTED] has not filed a Notice of Claim with the City of New York as of August 8, 2012 with regard to the incident (*encl. 21B*).

Civilian's Criminal History

- As of May 24, 2012, Office of Court Administration records reveal the following criminal convictions for [REDACTED]
 - [REDACTED] (*encl. 22F*).

Civilian's CCRB History

- [REDACTED] has not filed any prior complaints at the CCRB (*encl. 3*). However, he was named as a victim in the following complaints:
 - CCRB #200700727 identified [REDACTED] as a co-victim of a stop, search of person, and vehicle search. All three allegations were closed as victim uncooperative.
 - CCRB #200713298 identified [REDACTED] as a co-victim of a stop. That allegation was unsubstantiated.

Subject Officer's CCRB History

- [REDACTED]
- PO Mark Brinadze has been a member of the service for three years and there are no substantiated CCRB allegations against him. (*encl. 2*).

Conclusion

Identification of Subject Officers

■■■■ identified PO ■■■■ by name and shield number and he provided a physical description of him which matches PO ■■■■ actual pedigree information. ■■■■ stated that the two officers who stopped, frisked, and searched him were two males. NYPD records show that PO ■■■■ and PO Brinadze were the only two males assigned to van #5381 at the time the incident allegedly occurred. ■■■■ also provided a physical description of PO Brinadze which matches his actual pedigree information. PO ■■■■ and PO Brinadze are therefore listed as the subject officers in this complaint.

Investigative Findings and Recommendations

- **Allegation A: Abuse of Authority: PO Mark Brinadze stopped ■■■■**
- **Allegation B: Abuse of Authority: PO ■■■■ frisked ■■■■**
- **Allegation C: Abuse of Authority: PO Mark Brinadze frisked ■■■■**
- **Allegation D: Abuse of Authority: PO ■■■■ searched ■■■■**
- **Allegation E: Abuse of Authority: PO Mark Brinadze searched ■■■■**

Neither PO ■■■■ nor PO Brinadze recalled this incident. Corroborative eyewitness testimony concerning the allegations mentioned above was not obtained. As a result, the CCRB could not determine whether ■■■■ was stopped, frisked, and searched by PO ■■■■ and PO Brinadze on the date in question. The factual details of the encounter that took place between PO ■■■■ PO Brinadze, and ■■■■ remain unknown. It is therefore recommended that Allegations A through E be unsubstantiated.

- **Allegation F: Other: PO Mark Brinadze failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.**
- **Allegation G: Other: PO ■■■■ failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.**
- **Allegation H: Other: PO ■■■■ failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08.**

Based on the vehicle number supplied by ■■■■ and the accurate descriptions he provided of PO Brinadze, PO ■■■■ and PO ■■■■ the investigation credited that there was some type of interaction between them and ■■■■ on the date in question. However, neither PO Brinadze, PO ■■■■ nor PO ■■■■ recalled this incident and substantive testimony regarding it was not obtained during their CCRB interviews. Consequently, the investigation could not determine the extent to which they interacted with ■■■■ Each officer involved in this incident failed to prepare memo book entries related to this incident. Memo book entries could have abetted in restoring their memory and could have potentially enabled them to provide testimony about this incident. Their failure to prepare memo book entries compromised the integrity of the investigation and prevented the CCRB from making a determinative finding regarding the allegations discussed above. In light of the above, it is recommended as to Allegations F through H that each officer be cited for **Other Misconduct**.

Team: 6

Investigator:	_____	Jonathan Phillips	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date